

TEXT OF PROPOSED REGULATIONS

In the following, underline text indicates proposed new regulatory language, and strikethrough indicates deleted text.

3000. Definitions.

Section 3000 is amended to add the definitions below and merge them alphabetically with those that exist in the regulations.

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Behavior Management Unit is alternate general population housing and programming which is designed to reduce inmate's continuing involvement in disruptive behavior, violence, or noncompliance with CDCR rules and regulations, allowing non-disruptive inmates in the general population the opportunity to program without continual interruption due to the behavior of a smaller, more disruptive segment of the inmate population.

Disruptive Behavior means behavior which might disrupt orderly operations within the institutions, which could lead to violence or disorder, or otherwise endangers facility, outside community or another person as defined in sections 3004(b), 3005(a) and 3023(a).

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Note: Authority cited: Sections 2717.3, 5058 and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5054, 5068, and 7000 et seq., Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; and Section 11007, Health and Safety Code.

Subchapter 4. GENERAL INSTITUTION REGULATIONS

New Article 6.5 is adopted.

Article 6.5. Behavior Management Unit

New Section 3334 is adopted.

3334. Behavior Management Unit.

(a) An inmate may not be assigned to a Behavior Management Unit (BMU), as defined in section 3000, except on the order of a Classification Committee.

(b) Inmates may be referred to a Classification Committee for placement into the BMU for one or more of the following reasons:

(1) Program Failure. The inmate is deemed a Program failure as defined by section 3000.

(2) Security Housing Unit (SHU) Offense as defined in section 3341.5(c)(9).

(A) If an inmate has been found guilty of an offense for which a determinate term of confinement has been assessed, whether imposed or suspended, and whose in-custody behavior reflects a propensity towards disruptive behavior, the inmate may be referred to a classification committee for placement in the BMU.

(B) Inmates currently serving a determinate SHU term whose in-custody behavior reflects a propensity towards disruptive behavior, which otherwise would not be eligible for additional SHU term assessment, shall be considered by the Institutional Classification Committee (ICC) for placement in a BMU upon completion or suspension of the SHU term.

(C) Inmates that have reached the Minimum Eligible Release Date (MERD) and have demonstrated an unwillingness to program in the general population may be reviewed by the Classification Committee for BMU placement consideration.

(3) Gang Related Activity

(A) Any pattern, which consists of two or more documented behaviors which indicates an individual's participation in gang related activity may be grounds for placement in the BMU. Gang related activity is defined as behavior which indicates an inmate's participation in a gang, prison gang, street gang or disruptive group as defined in section 3000.

(c) Inmates who meet the criteria for placement in the BMU program per section 3334(b) shall be reviewed by a Classification Committee after initial placement in the BMU program as outlined in section 3334(c)(3) below. The Classification Committee shall review, determine and assess the appropriate step, and if applicable approve a step change as outlined in section 3334(e) for each BMU inmate as recommended by BMU staff not less than every 30 days.

(1) Initial placement into the BMU shall be for a minimum of 90 days beginning on the date of reception into the BMU.

(2) Subsequent BMU placements shall be for a minimum of 180 days beginning on the date of reception into the BMU. Inmates who require subsequent placement will be monitored by BMU staff to ensure program compliance. If an inmate refuses to participate as required, the Classification Committee will review for possible program rejection.

(3) The Classification Committee will complete an initial assessment and develop an Individualized Training Plan (ITP) within 14 days of placement into BMU. The ITP will be based on each inmate's reason(s) for placement as outlined in section 3334(b).

(4) Inmates shall be expected to meet the requirements established by the Classification Committee as outlined in the ITP.

(5) Inmates must remain disciplinary free and complete the ITP as directed by the Classification Committee before being released from the BMU. The ITP may include, but is not limited to, participation in departmentally approved cognitive behavior programs, and/or participation in self help groups.

(6) The Classification Committee shall be responsible for providing the inmate with notification of the rules and intent of the BMU program. The CDC 128-G, Classification Chrono (Rev. 10/89), shall clearly state that the inmate was informed of the reason for placement, the length of placement, and any additional action the inmate must take to successfully complete the BMU program.

(d) In each case of BMU placement, release from the BMU is based upon completion of the ITP established by the Classification Committee.

(1) The Classification Committee will determine if the inmate has successfully completed their ITP requirements or failed to meet their requirements. Inmates who have met their ITP requirements shall be eligible to advance to the next step of the BMU program. Inmates who have not met their ITP requirements shall be reviewed for appropriate step placement.

(e) BMU Step Process: Work Group/Privilege Group designations

(1) All inmates placed into the BMU will be designated a Work Group (WG), consistent with section 3044, and as determined by the Classification Committee effective the date of placement. Regardless of the WG, the designated Privilege Group (PG), consistent with section 3044, for Step 1 and Step 2 shall be C. The designated PG for Step 3 shall be B. All Work/Program assignments for BMU inmates shall be restricted to and located in the BMU.

(A) Step 1: Initial Placement – WG A1, A2, B or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 2.

(B) Step 2: WG A1, A2, B, or C and PG C. If the inmate meets the goals of the ITP, he will advance to Step 3.

(C) Step 3: WG A1, A2, B and PG B. If the inmate meets the goals of the ITP, he will advance to Step 4.

(D) Step 4: Upon completion of the ITP, inmates will be returned to traditional general population housing.

(f) Failure to progress in the stepped process shall be grounds for rejection from the BMU program and a review by the Classification Committee for placement on WG C PG C status. Inmates who have been rejected from the program shall not be placed in any other general population work or program assignment until they have successfully completed their ITP in the BMU. Inmates who have been rejected from the BMU program must submit a written request to their Correctional Counselor I for readmission to the program and shall be reviewed by the Classification Committee.

(g) Authorized BMU Property

(1) Inmates shall possess only the listed items of property while assigned to the BMU:

(A) Wedding band, plain metal only, one.

(B) Soft cover religious material, one.

(C) Soft cover dictionary, one.

(D) Prescription eyeglasses, clear lens only, one (as prescribed by a physician) pair.

(E) Athletic shoes, one pair.

(F) Shower shoes, one pair.

(G) Lined paper tablet, one.

(H) Embossed envelopes, fifteen.

(I) Legal material, as authorized per section 3161.

(J) Canteen items, not to exceed one month's draw of assigned privilege group.

(2) Inmates in the BMU shall possess property as authorized in section 3190(c).

(3) Inmates assigned to the BMU upon the initial placement will have their unauthorized property as outlined in 3334 (g)(1) and 3334(g)(2) stored, provided:

(A) Initial BMU placement is for no more than 90 days.

(B) Inmate participates in the BMU program and progresses to the next step at each 30 day review as outlined in section 3334(e).

(C) Inmate does not receive any property related disciplinary violations while in the BMU program.

(4) Should the inmate fail to comply with these provisions above, all unauthorized property as outlined in 3334(g)(1) and 3334(g)(2) shall be disposed of as provided in section 3191(c).

(5) Inmate's assigned to the BMU upon the second or subsequent placements shall have all unauthorized property, as outlined in 3334(g)(1) and 3334(g)(2), disposed of as provided in section 3191(c).

(h) Canteen. BMU inmates will be allowed only one (1) draw per month. Canteen privileges shall be established by the Classification Committee as follows:

Step 1 – One fourth the maximum monthly canteen draw as authorized in section 3044(f).

Step 2 – One fourth the maximum monthly canteen draw as authorized in section 3044(f).

Step 3 – One half the maximum monthly canteen draw as authorized in section 3044(e).

(i) Vendor packages are authorized for receipt by inmates housed within the BMU in accordance with their privilege group status as provided in section 3044(c).

(j) Mental Health Services. BMU inmates will be seen by the Mental Health Department in accordance with normal GP treatment expectations as outlined within the Mental Health Services Delivery System (MHSDS). A Mental Health clinician shall attend the Classification Committee for all initial reviews in order to assess the appropriateness of BMU placement for an inmate included in the MHSDS. Inmate's currently at the Enhanced Out Patient (EOP) level of care are not eligible for BMU placement.

(k) Visits. BMU inmates are permitted visits with their approved visitors. All visits for inmates at Step 1 and 2 will be non-contact, this includes attorney visits. Inmates at Step 3 will be afforded contact visits.

NOTE: Authority cited: Section 5058 and 5058.3, Penal Code. Reference: Sections 5054, Penal Code.